

SECOND REGULAR SESSION

SENATE BILL NO. 1000

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Read 1st time February 2, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4709S.01I

AN ACT

To amend chapter 621, RSMo, by adding thereto fifteen new sections relating to a state central hearing agency, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 621, RSMo, is amended by adding thereto fifteen new
2 sections, to be known as sections 621.500, 621.503, 621.506, 621.509, 621.512,
3 621.515, 621.518, 621.521, 621.524, 621.527, 621.530, 621.533, 621.536, 621.539
4 and 621.542, to read as follows:

621.500. 1. Sections 621.500 to 621.542 do not apply to:

2 **(1) An agency of the legislative branch of the state government;**
3 **or**

4 **(2) An agency of the judicial branch of the state government.**

5 **2. Except as provided in subsection 1 of this section, sections**
6 **621.500 to 621.542 shall apply to each agency that employs or engages**
7 **one or more hearing officers or administrative law judges, either full or**
8 **part-time, to adjudicate contested cases.**

621.503. 1. The office of administrative hearings is created as a
2 **type III agency, as defined in the reorganization act of 1974 within the**
3 **office of administration, for the purpose of separating the adjudicatory**
4 **function from the investigatory, prosecutory, and policymaking**
5 **functions of agencies in the executive branch. Administrative law judges**
6 **shall be selected and appointed by the governor upon screening and**
7 **recommendation of a judicial nominating commission.**

8 **2. The hearing officers and administrative law judges, employed**
9 **as of January 1, 2007, of the agencies to which sections 621.500 to 621.542**

10 apply shall be transferred to and shall become employees of the office of
11 administrative hearings.

621.506. 1. Except as provided herein, the office shall administer
2 the resolution of all contested cases.

3 2. Upon referral by an agency, one or more administrative law
4 judges shall administer the resolution of the matters referred.

621.509. 1. The office shall be headed by a chief administrative
2 law judge selected by the governor, with the advice and consent of the
3 senate, to serve a term of four years, who may be removed only for good
4 cause following notice, and an opportunity for an adjudicative hearing
5 and shall continue in office until a successor is appointed.

6 2. The chief administrative law judge shall:

7 (1) Take an oath of office as required by law prior to the
8 commencement of duties;

9 (2) Devote full time to the duties of the office and shall not engage
10 in the practice of law;

11 (3) Be eligible for reappointment;

12 (4) Be licensed to practice law in the state and admitted to
13 practice for a minimum of five years;

14 (5) Have the powers and duties specified in sections 621.500 to
15 621.542; and

16 (6) Be subject to the code of conduct for administrative law
17 judges.

18 3. The chief administrative law judge may employ any necessary
19 staff, subject to appropriations.

621.512. 1. The chief administrative law judge shall:

2 (1) Supervise the office of administrative hearings;

3 (2) Assign administrative law judges in any case referred to the
4 office;

5 (3) Protect and ensure the decisional independence of each
6 administrative law judge;

7 (4) Establish and implement standards and specialized training
8 programs and provide materials for administrative law judges;

9 (5) Provide and coordinate continuing education programs and
10 services for administrative law judges, including research, technical
11 assistance, technical and professional publications, compile and
12 disseminate information, and advise of changes in the law relative to

13 their duties;

14 (6) Adopt rules to implement sections 621.500 to 621.542. Any rule
15 or portion of a rule, as that term is defined in section 536.010, RSMo,
16 that is created under the authority delegated in this section shall
17 become effective only if it complies with and is subject to all of the
18 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
19 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
20 of the powers vested with the general assembly pursuant to chapter 536,
21 RSMo, to review, to delay the effective date, or to disapprove and annul
22 a rule are subsequently held unconstitutional, then the grant of
23 rulemaking authority and any rule proposed or adopted after August 28,
24 2006, shall be invalid and void;

25 (7) Adopt a code of conduct for administrative law judges;

26 (8) Monitor the quality of state administrative hearings through
27 the provision of training, observation, feedback, and when necessary,
28 discipline of administrative law judges who do not meet appropriate
29 standards of conduct and competence, subject to the provisions of
30 subdivision (4) of subsection 1 of section 621.515; and

31 (9) Submit an annual report on the activities of the office to the
32 governor and to the general assembly.

33 2. The chief administrative law judge may:

34 (1) Serve as an administrative law judge in a contested case;

35 (2) Furnish administrative law judges on a contractual basis to
36 governmental entities other than those required to use their services;

37 (3) Accept and expend funds, grants, bequests, and services which
38 are related to the purpose of the office from any public or private
39 source;

40 (4) Enter into agreements and contracts with any public or
41 private agencies or educational institutions; and

42 (5) Create specialized subject matter divisions within the office.
621.515. 1. An administrative law judge shall:

2 (1) Take an oath of office as required by law prior to the
3 commencement of duties;

4 (2) Be admitted to practice law in the state for a minimum of five
5 years;

6 (3) Be subject to the requirements and protections of section
7 105.969, RSMo;

8 (4) Be removed, suspended, demoted, or subject to disciplinary or
9 adverse actions only for good cause, after notice and an opportunity to
10 be heard in an administrative procedure as provided in chapter 536,
11 RSMo, and a finding of good cause by an impartial hearing officer;

12 (5) Be subject to a reduction in force only in accordance with
13 established, objective civil service or merit system procedures;

14 (6) Not perform duties inconsistent with the duties and
15 responsibilities of an administrative law judge;

16 (7) Devote full time to the duties of the position and shall not
17 engage in the practice of law;

18 (8) Be subject to administrative supervision by the chief
19 administrative law judge; and

20 (9) Be subject to the code of conduct for administrative law
21 judges.

22 2. An administrative law judge shall not be responsible to or
23 subject to the supervision, direction, or direct or indirect influence of
24 an officer, employee, or agent engaged in the performance of
25 investigatory, prosecutory, or advisory functions for an agency.

621.518. 1. All agencies of state government shall cooperate with
2 the chief administrative law judge in the discharge of the duties of the
3 office.

4 2. Except in arbitration or similar proceedings as provided by law
5 or in sections 621.500 to 621.542 or in regulations adopted under this act,
6 an agency may not select or reject a particular administrative law judge
7 for a particular proceeding.

621.521. If the office is unable to assign an administrative law
2 judge in response to an agency referral, the chief administrative law
3 judge shall designate in writing an individual to serve as an
4 administrative law judge in a particular proceeding before the agency
5 if the individual meets the qualifications for an administrative law judge
6 established by the office and is subject to the Code of Judicial Conduct.

621.524. An administrative law judge shall have the power to:

2 (1) Issue subpoenas;

3 (2) Administer oaths;

4 (3) Control the course of the proceedings;

5 (4) Engage in or encourage the use of alternative dispute
6 resolution methodologies as appropriate;

7 (5) Order a party, a party's attorney, or other authorized
8 representative, to pay reasonable expenses, including attorney's fees,
9 incurred by another party as a result of bad faith actions or tactics that
10 are frivolous or solely intended to cause unnecessary delay; and

11 (6) Perform other necessary and appropriate acts in the
12 performance of duties.

 621.527. 1. The assigned administrative law judge shall render the
2 final decision of the agency, not subject to agency review, in all
3 appropriate hearings.

4 2. Where a matter is referred to the office by an agency, the
5 referring agency shall take no further adjudicatory action with respect
6 to the proceeding, except as a party litigant, as long as the office has
7 jurisdiction over the proceeding. Nothing in this subsection shall be
8 construed to prevent an appropriate interlocutory review by the agency
9 nor an appropriate termination or modification of the proceeding by the
10 agency.

 621.530. Judicial review of hearing office decisions shall occur in
2 accordance with sections 536.100 to 536.140, RSMo.

 621.533. In addition to the restrictions provided in chapter 105,
2 RSMo, no administrative law judge or chief administrative law judge
3 shall, for two years after termination of his or her employment, perform
4 any service for compensation for any person, firm, or corporation to
5 influence the decision or action of the office; provided, however, that he
6 or she may, after termination of his or her office or employment,
7 perform such service for consideration in any adversary proceeding or
8 in the preparation or filing of any public document or conference
9 thereon unless he or she participated directly in that matter or in the
10 receipt or analysis of that document while he or she was serving as a
11 member.

 621.536. Notwithstanding other provisions of the law to the
2 contrary, any internal hearing procedure established by law for any
3 department or agency shall be held by the office of administrative
4 hearings in lieu of the department or agency after January 1, 2007. All
5 other procedures relating to such hearings shall be those established in
6 law for the department or agency and the issue in question.

 621.539. After January 1, 2007, all references in the revised
2 statutes of Missouri to this chapter, or any section within this chapter,

3 shall be interpreted to refer to sections 621.500 to 621.542, governing the
4 office of administrative hearings.

621.542. Sections 621.500 to 621.539 shall become effective on
2 January 1, 2007.

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Bill

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